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ABSTRACT

Highlighted in this report is the 1976-77 work of the ten member Commission on Indian Services which was established in 1976 to compile information on services available to Indians, to develop programs to inform Indians of services available to them, to develop programs to make Indian wants and needs known to public and private agencies, and to assess Indian programs of state agencies. Background for understanding the impact on Oregon of the relationships between Indian tribes, the states, and the federal government is presented through discussion of treaty obligations, PL 280 (1953), and the policy of termination. Commission efforts to promote increased communication and cooperation among Indians, federal agencies, national Indian organizations and multi-state organizations are outlined. Summaries are given of the Commission proposals made during the 1977 legislative session on alcoholism program funding, burial sites protection, confiscation of fishing equipment, tribal police training and certification, state taxation of Klamath distributions, and incomes earned on reservations. The activities of the Commission committees on budgets, children's services, corrections, education, and elderly services are reviewed. Other areas of concern described are affirmative action, alcohol and drug services, Columbia River Management Plan, employment assistance, housing, minority and small business assistance, legal services, and volunteer services. (NEC)

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January 1978

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FIRST ANNUAL

REPORT

OF THE

C O M M I S S I O N O N I N D I A N S E R V I C E S

SUBMITTED TO

MEMBERS OF THE FIFTY-NINTH LEGISLATIVE ASSEMBLY

AND THE GOVERNOR

OF THE STATE OF OREGON

JANUARY 1978

COMMISSION ON INDIAN SERVICES
454 STATE CAPITOL
SALEM, OREGON 97310
(503) 378-5481

January 1, 1978

TO THE MEMBERS OF THE FIFTY-NINTH LEGISLATIVE ASSEMBLY AND THE GOVERNOR OF THE STATE OF OREGON:

This report highlights the work of the Commission on Indian Services since its establishment in March 1976. The Commission believes that this period has been a productive one and that the foundation which has been established will continue to support the building of improved communications between Oregon and its Indian citizens and the cooperative development of responsive programs and services which will meet their needs.

Historically, states have deferred to the federal government for developing programs to serve Indians; such state services as have been provided to serve Indians have often proved inadequate, unused, or unusable. Too often, Indians have not participated in, or been consulted about, programs which are designed to serve them.

The Commission on Indian Services believes that a first step has been taken in Oregon towards recognizing the importance of Indian participation in decisions which will affect their families, tribes, and communities. The Commission also recognizes that it cannot fulfill its responsibilities without the continuing assistance of Indian communities and state officials.

The Commission on Indian Services offers its first annual report in the hope that it will be informative to those concerned with the problems faced by Indians in Oregon and that it will foster increased attention to developing solutions which are beneficial to Indians and all citizens of the state.

Warren R. Clements
Chairman

MEMBERS OF THE COMMISSION ON INDIAN SERVICES

The Confederated Tribes of the Warm Springs Reservation of Oregon

Warren "Rudy" Clements

The Confederated Tribes of the Umatilla Indian Reservation

William Johnson
(Appointed March 1977)

The Burns-Paiute Tribe

Jim St. Martin

Klamath Falls/Chiloquin Area

John Green

Portland Urban Area

Patrick Borunda
(Resigned January 1977)

Barbara Farmer
(Appointed August 1977)

North Coastal Area

Arthur Bensell

South Coastal Area

William Brainard

Willamette Valley Area

Robert Cannon
(Resigned May 1976)

Robert Bojorcas
(Appointed August 1976)

Oregon House of Representatives

Representative Sam Johnson

Oregon State Senate

Senator Victor Atiyeh

TABLE OF CONTENTS

CHAPTER I. INTRODUCTION 1

A. Background on the Commission on Indian Services 1

B. Indians in Oregon 3

CHAPTER II. THE STATES AND INDIAN TRIBES: SOVEREIGNTY AND JURISDICTIONAL ISSUES 6

A. Treaty Obligations 6

B. Public Law 280: State Jurisdiction Over Indian Reservations . . . 11

1. Background on the Legislative History of PL 280 11

2. Extent of Jurisdiction Conferred by PL 280 14

a. Criminal Jurisdiction 14

b. Civil Jurisdiction 15

1. Limited to Causes of Action 16
2. Application of Local Government Regulations 17

3. The Express Exceptions to PL 280 18

4. Retrocession of State Jurisdiction 19

5. PL 280: Application to Oregon 21

C. Termination and House Concurrent Resolution 108 24

CHAPTER III. RELATIONS WITH FEDERAL AGENCIES, NATIONAL INDIAN ORGANIZATIONS, AND MULTI-STATE ORGANIZATIONS

A. Federal Liaison 27

1. The Northwest Federal Regional Council 27

2. Liaisons With Congress 28

B. National Indian Organizations 29

C. Multi-State Organizations 29

1. Western States Association of Tax Administrators 29

2. National Conference of State Legislatures 31

3. Governors' Interstate Indian Council 30

CHAPTER IV. STATE SERVICES AND INDIAN NEEDS 32

A. Activities During 1977 Legislative Session 32

1. Funding of Alcoholism Programs 32

2. Protection of Indian Burial Sites 33

3. Confiscation of Fishing Equipment 34

4. Certification and Training of Tribal Police 34

5. Taxation of Klamath Distributions 34

6. State Taxation of Reservation Income 35

B. Other Activities--1976-77 . . . . . .

1. Commission Committees 35

a. Budget Review Committee 35

b. Children's Services Committee 36

c. Corrections Services Committee 36

d. Education Committee 37

e. Elderly Services Committee 38

2. Other Areas of Concern 38

CHAPTER V. CONCLUSION 40

Footnotes

CHAPTER I. INTRODUCTION

A. Background on the Commission on Indian Services

The Commission on Indian Services was created in 1975 with the passage of Senate Bill 386 "for the purpose of improving services for native Americans of Indian descent in the State of Oregon." In order to accomplish this objective, the Commission is charged with four specific responsibilities:

(1) Compile information relating to services available to Indians, including but not limited to education and training programs, work programs, housing programs, health programs, mental health programs including alcohol and drug services, and welfare programs from local, state and federal sources and through private agencies.

(2) Develop and sponsor in cooperation with Indian groups and organizations, programs to inform Indians of services available to them.

(3) Develop and sponsor programs to make Indian wants and needs known to the public and private agencies the activities of which affect Indians. Encourage and support these public and private agencies to expand and improve their activities affecting the Indians.

(4) Assess programs of state agencies operating for the benefit of Indians and make recommendations to the appropriate agencies for the improvement of those programs. [ORS 172.120]

The membership of the Commission is broadly representative of Oregon Indian communities and includes two members of the Legislative Assembly--one from each house. The eight Indian representatives are appointed jointly by the President of the Senate and the Speaker of the House of Representatives from nominations from the following tribes or areas:

(1) The Confederated Tribes of the Warm Springs Reservation.

(2) The Confederated Tribes of the Umatilla Indian Reservation.

(3) The Burns-Paiute Tribe.

(4) Klamath Falls/Chiloquin.

(5) Portland urban area.

(6) North coastal area.

(7) South coastal area.

(8) Willamette Valley area.

The organizational meeting of the Commission on Indian Services was held in March 1976 with nine of the ten positions filled.* At the April meeting, the Commission elected Warren R. Clements as Chairman and Arthur S. Bensell as Vice-Chairman. In July, the Emergency Board approved a one-year appropriation to the Commission and final selection of the Commission's staff was made in September.

The 1977 Legislative Assembly approved a biennial appropriation for the Commission to continue its activities during 1977-79. In July 1977, the Commission re-elected Mr. Clements and Mr. Bensell to serve another one-year term as the Commission's officers.

During fiscal year 1977, the Commission held ten meetings at the State Capitol, established procedures for meeting its statutory responsibilities, and met with state and federal officials, and Indian tribes, organizations, and individuals to discuss their programs benefiting Indians and the needs for improved or new services. During the 1977 legislative session, the Commission reviewed proposed legislation of interest to Indians in Oregon, and assisted Indian tribes and groups, and legislative committees, in the development of legislation responsive to the needs of Indian communities.

To more effectively carry out its responsibilities, the Commission has established six committees: Budget Review, Children's Services, Corrections, Education, Elderly Services, and Executive Policy. Each of the committees is responsible for developing information and proposals within their subject areas for consideration by the Commission; the Committee on Executive Policy, which includes the Commission's officers and two other members, serves as a steering committee between regular meetings of the Commission.

During fiscal year 1978, the Commission held two full Commission meetings and scheduled regional meetings throughout the state to learn from Indian communities what concerns the Commission should be addressing.

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* The December 1975 decision of the Confederated Tribes of the Umatilla Indian Reservation not to participate on the Commission was reconsidered by the Board of Trustees in February 1977, and the Board resolved to designate a representative to the Commission.

B. Indians in Oregon

The 1850 census estimated the Oregon Indian population at approximately 13,000 (more than one-half of the state's total population).[1] The 1970 U. S. Census reported that 13,510 Indians (0.65% of the total state population) lived in the state and that Indians represented the "most important minority in 30 out of 36 counties."[2] Other estimates for segments of the Indian population are also available.

A 1972 survey of Indians in the Portland urban area projected an Indian population of approximately 7,000 (in contrast to the Census Bureau's count of 2,673 Indians in Multnomah County).[3] The 1974-75 Racial and Ethnic Survey[4] enumerated 4,602 Indian students in Oregon public schools with more than 500 students in each of the following counties: Coos, Jefferson, Klamath and Multnomah. In 1977, the State Department of Education reported 7,792 Indian students in the public schools.[5] The Educational Coordinating Commission has identified 1,438 Indian or Alaska Native students in the state's colleges and universities.[6]

The Bureau of Indian Affairs reported that the Indian population residing "on or near" a reservation in Oregon was 2,833 in March 1973 and that 808 of these persons were over age sixteen.[7]

Although there are several bases for challenging the Census Bureau's Indian population figures, no other statewide enumeration has been conducted. Part of the problem undoubtedly lies in the fact that there is no universally-acceptable definition of who is an Indian. According to Felix Cohen:

> The term "Indian" may be used in an ethnological or in a legal sense. Ethnologically, the Indian race may be distinguished from the Caucasian, Negro, Mongolian, and other races. If a person is three-fourths Caucasian and one-fourth Indian, it is absurd, from the ethnological standpoint, to assign him to the Indian race. Yet legally such a person may be an Indian.[8]

The U. S. Census Bureau has changed its definition of "Indian" for each of the last five censuses.[9] For example, in 1950, Indians included:

> . . . full blooded Indians, persons of mixed White and Indian blood who were enrolled on an Indian reservation or agency roll, persons of one-fourth or more Indian blood, and persons of any Indian blood who were regarded as Indians in the community where they lived.[10]

In 1960, the definition was the same except that the category for persons of one-fourth or more Indian blood was dropped.[11] In 1970, the definition of "Indian" has been described as follows:

> A person was counted as an Indian in the 1970 census on the basis of a race question on the Census form. . . . In the case of self-enumeration a person had to identify himself as an Indian. Where an enumerator completed the form during a household interview, he asked a person's race, judged by appearances, or relied on local knowledge, as he saw fit.[12]

One of the broadest legal definitions, which has been adopted by the U. S. Equal Employment Opportunity Commission and the Oregon State Personnel Division, for Indians and Alaska Natives is: "All persons having origins in any of the original peoples of North America."[13] Programs under the Bureau of Indian Affairs also use varying legal definitions for determining who is an Indian. According to Sclar:

> A quarter blood definition is often used by the Bureau of Indian Affairs in determining who is eligible for its services. . . . Such a quarter-blood restriction by the BIA is legal in some circumstances [citing some educational programs]. . . . For purposes of the INDIAN REORGANIZATION ACT . . Indians are (1) persons of Indian descent who are members of an Indian tribe that was under federal jurisdiction on June 18, 1934, (2) descendants of such members who were, on June 1, 1934, residing within an Indian reservation, and (3) persons of one-half or more Indian blood.[14]

Felix Cohen recommends a general legal definition for "Indians" as including two factors: "(a) That some of his ancestors lived in America before its discovery by the White race, and (b) that the individual is considered an Indian by the community in which he lives."[15]

Three general distinctions within whatever legal definition is applicable have been applied in determining program eligibility: 1) Urban/Rural; 2) Reservation/Nonreservation; and 3) Recognized/Unrecognized. "Urban Indians" include those who live in metropolitan areas of the state, such as Portland, Salem, and Eugene. An urban Indian community is likely to include persons from tribes in Oregon and other states; persons with strong tribal affiliations, and persons with none; persons who chose urban living for employment, education, or other reasons, and persons whose decision was, in large part, made for them by the federal government. "Rural Indians" are those living in nonmetropolitan areas of the state and the term can include reservation, nonreservation, recognized and unrecognized Indians.

"Reservation Indians" are those living on, or near, one of Oregon's four Indian reservations: Warm Springs, Burns, Umatilla, or Ft. McDermitt. A reservation Indian community may include persons who are enrolled members of the tribe or tribes for whom the reservation was established, and Indians from other tribes who live on the reservation. "Nonreservation Indians" are those who live in urban or rural areas away from a reservation, and can include either recognized or unrecognized Indians.

"Recognized Indians" are those who are members of tribes to whom the federal government has acknowledged a special responsibility because of treaty or statutory obligations, and can include urban, rural, reservation, or non-

reservation Indians. "Unrecognized Indians" are of two types: (1) Those from tribes with whom federal relations have been severed by congressional action; and (2) Those whose tribes have never been recognized by the federal government.

Each of these categories represents a portion of the Indian population in Oregon; in many instances, a combination of categories is required to reflect accurately the composition of the state's Indian communities. Obviously, no single solution can address the needs in each community, nor can a solution to one problem necessarily be applied to another situation. This does not mean that the problems are insoluble, however, or that common problems do not exist among Indian communities. It does mean that careful analysis and consideration of each problem is required in order that services which are responsive to local communities can be provided.

CHAPTER II. THE STATES AND INDIAN TRIBES: SOVEREIGNTY AND JURISDICTIONAL ISSUES

> The words 'treaty' and 'nation' are words of our own language, selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth. They are applied to all in the same sense. Chief Justice Marshall, Worcester v. Georgia (1832).

Indian tribes represent a unique legal entity in the United States whose powers and limitations are commonly misunderstood. As Chief Justice Marshall's statement indicates, in its early relations with Indian tribes, the U. S. government dealt with the tribes as co-equal nations and with tribal members as aliens.[1] Although substantial changes have occurred in federal Indian policies, vestiges of these early relations continue as important components of present Indian law. This section will discuss the concept of tribal sovereignty as reflected in treaty negotiations and as modified by subsequent legislation.

A. Treaty Obligations

To satisfy its needs for expansion and to provide security for these territories, the U. S. government chose to negotiate treaties with the Indian tribes. Several underlying factors are important in recognizing the significance of this fact.

First, treaty-making was a recourse developed by the federal government and not by the Indian tribes who were parties to the treaties. The authority to make treaties is granted by the U. S. Constitution to the President and Senate in Article II, Section 2. In addition, Article VI establishes the supremacy of such treaties:

> [A]ll Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme of the Land; and the Judges in every State shall be bound Thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.

Second, making treaties with Indian tribes was a recognition that the tribes possessed superior claims to the lands which were the subject of the treaties. Third, in agreeing to the treaties, Indian tribes were not given any new rights, but instead, gave up certain rights to the United States and retained certain rights relating to the land, its uses and resources, for the tribe.

This last principle has been described as "perhaps the most basic principle of all Indian law" by Felix Cohen, who has articulated three components of the nature of Indian tribal authority from this fact:

> (1) An Indian tribe possesses. . . all the powers of any sovereign state. (2) Conquest renders the tribe subject to the legislative power of the United States and, in substance terminates the external powers of sovereignty of the tribe, e. g. its power to enter into treaties with foreign nations, but does not by itself affect the internal sovereignty of the tribe, i.e. its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress, but, save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government.[2]

Several important standards for interpreting treaties with Indian tribes have been recognized. According to Cohen:

> A cardinal rule in the interpretation of Indian treaties is that ambiguities are resolved in favor of the Indians. . . .
>
> A somewhat different, although related, rule. . , is to the effect that . . . doubtful clauses are resolved in a nontechnical way as the Indians would have understood the language.[3]

In interpreting treaty obligations, a comparison has been made to the enforcement of "adhesion contracts" which are: "contracts usually standardized, imposed upon one party by another who is in a superior bargaining position."[4] As a result:

> . . . Indian treaties, like adhesion contracts, are liberally construed in favor of the weaker party, and their terms are given the meaning attached to them by laymen unversed in the law. The goal is to achieve the reasonable expectations of the weaker party.[5]

As important as the issue of what a treaty means can be whether the treaty has been abrogated or replaced. In general, treaties can be abrogated unilaterally by Congress and this congressional power over Indian treaties is similar to that for international treaties:

> Congressional power to abrogate is based on the notion that a treaty represents the political policy of the nation at the time it was made. If there is a change of circumstances and the national interest accordingly "demands" a modification of its terms, then Congress may abrogate a treaty in whole or in part.[6]

Although this power is generally recognized to exist, it is more difficult to interpret when abrogation has actually occurred. A number of judicial tests have been employed in evaluating whether a treaty has been abrogated by a subsequent act of Congress. The major bases have been described as:

> (1) Abrogation only upon a "clear showing" of legislative intent;
>
> (2) Abrogation "not lightly implied;"
>
> (3) Abrogation only after "liberal construction" of the statute in favor of Indian treaty rights;
>
> (4) Abrogation only upon express legislative reference to Indian treaty rights.[7]

To resolve these varying standards, Wilkinson and Volkman advocate that an objective test be applied:

> [T]hat treaty rights of American Indians may be abrogated only by an express statement in a subsequent statute or joint resolution. The statute or resolution should clearly identify the specific Indian treaty rights which are involved and state that it is the intent of Congress to abrogate such rights.[8]

The authors argue that this standard would:

> . . . permit this Nation to break its word, but only after deliberate congressional consideration of its merits. Given the paramount importance of many treaty abrogation issues to the American Indian, there simply is no justification for continuing to leave abrogation questions to judicial guesswork.[9]

At least eleven separate treaties were negotiated and ratified with Indian tribes in Oregon. Most of these treaties were made between 1853 and 1856,* and the treaties with the Klamath in 1864 and the Snake in 1865 represented the last treaties negotiated in the state. By means of these treaties, the U. S. formally cleared its title to much of present-day Oregon.

By and large, treaties in Oregon were concluded during the tenure of George Manypenny as Commission of Indian Affairs, and this period of treaty-making has been characterized by Cohen as one involving "experiments in allotment." The 1853 treaties in Oregon did not provide for individual allotments,

---

* These treaties were with the Rogue River (1853); Umpqua--Cow Creek Band (1853); Chasta, etc. (1854); Umpqua and Kalapuya (1854); Kalapuya, etc. (1855); Wallawalla, Cayuse, etc. (1855); Nez Perces (1855); Middle Oregon Tribes (1855); Molala (1855).

but did state:

> [S]hould it at any time hereafter be considered by the United States as a proper policy to establish farms among and for the benefit of said Indians, it shall be discretionary with the President, by and with the advice and consent of the Senate, to change the annuities herein provided for, or any part thereof, into a fund for that purpose.[10]

By November 1854, however, the treaty with the Chasta provided for the allotment of the reservation lands as follows:

> Article 6. The President may, from time to time, at his discretion, direct the surveying of a part or all of the agricultural lands on said reserve, divide the same into small farms of from twenty to eighty acres, according to the number of persons in a family, and assign them to such Indians as are willing to avail themselves of the privilege and locate thereon as a permanent home, and to grant them a patent therefor under such laws and regulations as may hereafter be enacted or prescribed.[11]

Each of the subsequent treaties contained similar provisions concerning allotments of the lands for farming, although more stringent provisions on inheritance and the number of acres to be allotted to each were common. In addition, after 1854, each of the treaties established the following, or similar, restrictions on the allotted lands:

> [T]he tract shall not be aliened or leased for a longer term than two years and shall be exempt from levy, sale, or forfeiture, which condition shall continue in force until a State constitution embracing such lands within its limits shall have been formed, and the legislature of the State shall remove the restrictions. Provided, however, That no State legislature shall remove the restrictions herein provided for without the consent of Congress.[12]

Following Oregon's statehood in 1859, the treaties with the Klamaths and the Snakes continued to require such congressional consent.

In 1871, the practice of negotiating treaties with Indian tribes was abandoned.[13] In the Indian appropriation act of that year, the following provisions were included:

> Provided, That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: Provided further, That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made

and ratified with any such Indian nation or tribe.[14]

The fact that "treaties" were no longer negotiated between the federal government and Indian tribes after 1871, however, did not diminish the sovereign responsibilities of tribal governments, even in the eyes of the federal government. Instead, treaty-making was abandoned because of the opposition from the House of Representatives in not being involved in the ratification process. As Cohen notes:

> The substance of treaty-making was destined, however, to continue for many decades. For in substance a treaty was an agreement between the Federal Government and an Indian tribe. And so long as the Federal Government and the tribes continue to have common dealings, occasions for agreements are likely to recur. . . . These agreements differed from formal treaties only in that they were ratified by both houses of Congress instead of by the Senate alone.[15]

Notwithstanding the preferred legal status of treaties and the acknowledgment of their continuing validity by Congress, treaty obligations have not been uniformly upheld. As Cohen states:

> The legal force of Indian treaties did not insure their actual enforcement. Some important treaties were negotiated but never ratified by the Senate, or ratified only after a long delay. Treaties were sometimes consummated by methods amounting to bribery, or signed by representatives of only a small part of the signatory tribes. The Federal Government failed to fulfill the terms of many treaties, and was sometimes unable or unwilling to prevent states, or white people, from violating treaty rights of the Indians.[16]

Cohen's statement notes that state efforts at respecting Indian treaty rights have often been negligible. In a similar vein, Price observes that:

> One of the clearest themes involving Indian sovereignty in the last two centuries has been the continuous struggle by the state to assert control over Indian reservations.[17]

In the next two sections, two of the most substantial of the federal efforts to modify treaty obligations and increase state authority over Indian tribes--a 1953 law to transfer civil and criminal jurisdiction over Indian reservations to the states, and a 1953 congressional resolution to terminate federal supervision of Indian tribes--will be discussed.

B. Public Law 280: State Jurisdiction Over Indian Reservations

1. Background on the Legislative History of PL 280

Upon its enactment in 1953, Public Law 280[1] represented the most comprehensive federal attempt at delegating federal authority over Indian reservations to the states. The relatively easy act of transferring such jurisdiction has generated considerable controversy however, and issues of both the wisdom of the law and its application have continued to be debated by Indian tribes, the Congress, the President, the courts, and the states.

As originally enacted, PL 280 granted civil and criminal jurisdiction over Indian reservations to five states*--California, Minnesota, Nebraska, Oregon, and Wisconsin; in addition, the law established procedures for the acceptance of jurisdiction by all other states.** Of the five jurisdictions where state acceptance was mandatory, three reservations were excepted: The Red Lake Reservation in Minnesota, the Warm Springs Reservation in Oregon, and the Menominee Reservation in Wisconsin.***

Termed by one author as "an attempt at compromise between wholly abandoning the Indians to the states and maintaining them as federally protected wards, subject only to federal or tribal jurisdiction,"[2] PL 280 received little congressional scrutiny. According to the Congressional Research Service:

> The [House] Committee [on Interior and Insular Affairs] issued its report on H.R. 1063 on July 15, 1953. On July 27, the bill was taken up on the floor of the House, and was adopted without debate.
>
> Two days later, on July 29, 1953, the Senate Committee on Interior and Insular Affairs reported the bill without amendment. The Committee broke no new ground, and was largely a reprint of the House committee report.

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* Upon its admission as a state, Alaska was later added.

** The remaining states were grouped in two categories. The first included those eight states whose constitution or enabling act disclaimed jurisdiction over Indian lands: Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington. The second group included all of the remaining states. For a discussion of the acceptance of state jurisdiction in these "optional" states, see Goldberg, "Public Law 280: The Limits of State Jurisdiction over Reservation Indians," 22 U.C.L.A. Law Review 535, pp. 546-569; and Ackerman, "Background Report on Public Law 280," in Indian Law Enforcement Improvement Act of 1975 Hearings, U.S. Senate Subcommittee on Indian Affairs, March 4-5, 1976, Part II, pp. 763-769.

*** Subsequent amendments permitted the Menominee Reservation to be subject to state jurisdiction, pursuant to tribal request, in 1954; The Metlakatla Indian community in Alaska was exempted from state criminal jurisdiction in 1970. Upon restoration of the Menominee Tribe in 1973, jurisdiction was turned back to the tribe and the federal government.

> On August 1, the bill was taken up on the floor of the Senate and, with one amendment, was passed by voice vote.
>
> Later the same day (August 1) the bill as amended by the Senate was brought before the House on a motion to concur in the Senate amendment. Without debate, the House concurred in the deletion of Section 8 [relating to liquor laws], and sent the bill to the President for his signature.[3]

One of the earliest objections to the legislation was voiced by President Eisenhower in signing PL 280 into law:

> I have. . . signed it because its basic purpose represents still another step in granting complete political equality to all Indians in our Nation.
>
> . . . .
>
> My objection to the bill arises because of the inclusion in it of section 6 and 7 [relating to state jurisdiction in the optional states]. These sections permit other States to impose on Indian tribes within their borders, the criminal and civil jurisdiction of the State, removing the Indians from Federal jurisdiction, and, in some instances, effective self-government. The failure to include in these provisions a requirement of full consultation in order to ascertain the wishes and desires of the Indians and of final Federal approval, was unfortunate. I recommend, therefore, that at the earliest possible time in the next session of the Congress, the act be amended to require such consultation with the tribes prior to the enactment of legislation subjecting them to State jurisdiction, as well as approval by the Federal Government before such legislation becomes effective.[4]

This recommendation was not adopted until 1968--15 years after the effective date of PL 280.*

Although PL 280 did not affect the status of any Indian reservation as federal trust property, the law was considered by many as a significant diminution of tribal authority and as being in furtherance of the prevalent federal desire to terminate all federal responsibilities for Indians and to foster the assimilation of Indians into American society. This view was supported by the House Committee on Interior and Insular Affairs in its report on H.R. 1063, which became PL 280:

> [T]he Indians of several States have reached a stage of acculturation and development that makes desirable extension of State civil jurisdiction to the Indian country within their borders. Permitting the State courts to adjudicate civil controversies arising on Indian reservations, and to extend to those reservations the substantive civil laws of the respective States insofar as those laws

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* Refer to the discussion of the Civil Rights Act of 1968 at page 13.

> are of general application to private persons or private property, is deemed desirable.[5]

Unlike the motives which had fostered previous legislation to transfer criminal jurisdiction over reservations to the states, PL 280's grant of civil jurisdiction has been described as directly influenced by pro-termination philosophies:

> Considering the absence of any significant investigation of the Indians' stage of social development prior to the broad delegation of jurisdiction to every state by PL-280, it seems unlikely that Congress knew or cared about the Indians' readiness for state jurisdiction. Furthermore, it is difficult to reconcile this theme of advanced acculturation with the prevailing notion that state criminal jurisdiction was necessary because the Indians were disorderly and incapable of self-government. Most likely, civil jurisdiction was an afterthought in a measure aimed primarily at bringing law and order to the reservation, added because it comported with the pro-assimilationist drift of federal policy, and because it was convenient and cheap.[6]

Important exceptions to the grants of civil and criminal jurisdiction were established, however. PL 280 recognized the following restrictions on state jurisdiction:

> Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto.[7]

These provisions were accompanied by express exclusions relating to hunting and fishing rights from the grant of criminal jurisdiction and to probate jurisdiction from the grant of civil jurisdiction.[8] The implications of these exceptions will be considered in the following section of this chapter.

Significant amendments to PL 280 were made with the passage of the Civil Rights Act of 1968, and a provision was added requiring a tribal referendum before state jurisdiction could be extended over a reservation. Although these provisions were not made applicable to state jurisdiction acquired before 1968, the following advantages of the change have been identified:

> The tribal consent provision transformed PL-280 from a law which justified state jurisdiction on law enforcement, budgetary, and assimilationist grounds to one which justified state jurisdiction as a means of providing services to Indian communities. Among the strongest

> arguments in favor of the 1968 Act's amendment was that the institution of state jurisdiction under PL-280, far from improving reservation law and order and elevating Indians from second-class citizenship, had subjected them to discriminatory treatment in the courts, as well as discrimination in the provision of state services. Once tribal consent became a prerequisite to state jurisdiction, and jurisdiction could be acquired one subject matter at a time, the way was opened for tribes and states to negotiate for the extension of state jurisdiction in those situations where it was to their mutual advantage.[9]

The following section will discuss the limits of state jurisdiction which could be exercised under PL 280.

2. Extent of Jurisdiction Conferred by PL 280

As previously indicated, the transfer of state jurisdiction over Indian reservations by PL 280 was not applicable to all states or all reservations. Similarly, the grants of jurisdiction were not exclusive in that certain federal or tribal authority was retained as not subject to state control. This section highlights some of the more significant issues which have been considered in implementing PL 280.

a. Criminal Jurisdiction

Issues concerning the extent of state jurisdiction over criminal conduct granted by PL 280 have been largely resolved. The law was intended to establish law and order on Indian reservations and to protect those living nearby. According to Goldberg:

> In 1953, responsibility for law enforcement on the reservations was irrationally fractionated. If a non-Indian committed a crime against another non-Indian or a crime without an apparent victim, such as gambling or drunk driving, only state authorities could prosecute him under state law. But if either the offender or victim was Indian, the federal government had exclusive jurisdiction to prosecute, applying state law in federal court under the Assimilative Crimes Act. Finally, if offender and victim were both Indians, the federal government had exclusive jurisdiction if the offense was one of the "Ten Major Crimes;" otherwise, tribal courts had exclusive jurisdiction.[10]

A number of other approaches could have been developed, including increased cooperation between state, federal and tribal law enforcement agencies or increased assistance for improving tribal law enforcement services.[11] However, as Goldberg notes:

> State criminal jurisdiction was preferred to other alternatives however, because it was the cheapest solution; Congress was interested in saving money as well as bringing law and order to the reservation.[12]

Two important issues in the criminal jurisdiction area have been raised. The first involves whether states can obtain jurisdiction over Indian reservations with only federal action and without any affirmative state acceptance. At the present time, it appears settled that whether under a theory of delegated federal authority or residual state authority which could be exercised once federal preemption lapsed, the states did acquire jurisdiction over criminal offenses committed by Indians on reservations pursuant to PL 280.[13]

The second issue involves whether the grant of jurisdiction under PL 280 subjected Indians on their reservations to local criminal ordinances. This issue concerns the different wording used in PL 280 in the two sections granting criminal and civil jurisdiction to the states. As adopted in 1953, the provision for criminal jurisdiction provides in part:

> Each of the states listed. . . shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed . . to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State.[14]

The similar provision for civil jurisdiction, however, is limited to civil causes of action and "civil laws of such State that are of general application to private persons or private property."[15]

In a California case, the application of local gambling laws to a reservation was challenged as outside the grant of criminal jurisdiction to the state; the federal district court found that the ordinance was a state law within the meaning of PL 280.[16] Goldberg notes that even if local criminal ordinances are enforceable under PL 280, this does not necessarily imply that other local regulations (such as zoning laws) would be.[17] The application of PL 280 to civil law areas will be considered in the following section.

b. Civil Jurisdiction

The extent to which civil jurisdiction was intended to be conferred on the states has generated considerably more controversy than the criminal jurisdiction section. Goldberg observes:

> Recent social, economic, and political developments have made the Indians and states especially anxious that their respective interpretations of PL-280 prevail. The expansion of metropolitan areas near Indian reservations has increased the states' interest in regulating and exploiting residential and recreational development of trust land.

> States have been notably desirous of acquiring pollution and subdivision control. The discovery of substantial energy resources on reservations, and consequent industrial development, have spurred similar state interest in regulating and taxing those activities. At the same time, tribal governments have been receiving encouragement from the federal government to develop tribal enterprises and strengthen their administrative apparatus, increasing their interest in freedom from state power.[18]

In civil law areas, Goldberg has identified the following issues as critical to the Indians' interpretations of PL 280:

> . . . Indians have contended that state jurisdiction under PL-280 is (1) limited in the civil area to jurisdiction over causes of action, so that states lack general regulatory power in areas such as zoning and taxation, (2) limited to enforcement of state as opposed to county and municipal laws, and (3) subject to explicit statutory exceptions in the areas of hunting and fishing rights, land use control, and taxation, which should be interpreted very generously in the Indians' favor.[19]

1. Limited to Causes of Action

The contention that PL 280 confers jurisdiction only over civil causes of action arises from an interpretation of section 4 of the original law and its legislative history. Section 4 provided:

> Each of the states listed. . . shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed. . . to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State. . . .

Goldberg notes that there was no mention in either the Senate or the House of Representatives that PL 280 conferred general regulatory powers on the states.[20] However, during hearings on the 1968 amendments, Senator Ervin observed:

> Public Law 280 relates primarily to the application of state civil and criminal law in court proceedings, and has no bearing on programs set up by States to assist economic and environmental development in Indian territories. [Emphasis in original.]

Although this statement would not be controlling as evidence of legislative intent at the time PL 280 was enacted, it does indicate what one of the chief sponsors of the 1968 amendments considered to be the thrust of the law. From her review of the legislative history, Goldberg concludes:

> [T]he language in the Act seized upon by the Indians as indicative of a limited role for state civil jurisdiction was the product of ambiguous drafting, and not of fundamental policy choices. It is most likely that criminal and civil jurisdiction were designed to be coextensive, and similarly regulatory in nature. This conclusion does not mean that various forms of state regulation of activity on Indian reservations may not be offensive on other grounds--either because the regulation is accomplished by local as opposed to statewide legislation, or because PL-280 was not intended to confer particular kinds of regulatory power. . . . But these are separate issues. . . .[22]

2. Application of Local Government Regulations

A second issue on the coverage of PL 280 has been whether the law granted civil jurisdiction to the states only, or whether local government regulation was also conferred. As Goldberg notes:

> At stake in these controversies is whether tribal governments are to remain viable, and whether reservations in PL-280 states are to be anything more than tax-free pieces of property, totally subject to regulation by local governmental entities as well as the state.[23]

No court cases appear to have definitively answered this issue.

In Santa Rosa Band of Indians v. Kings County,[24] the Ninth Circuit Court of Appeals held that the county could not apply zoning and building codes to the reservation. In Snohomish v. Seattle Disposal Co.,[25] the Washington Supreme Court held that the county could not enforce its zoning ordinances on land within a reservation used for a garbage dump. Goldberg notes that other cases upholding local regulation of activities on a reservation are ". . . attributable to a judicial misunderstanding of the underlying thrust of PL-280," and concludes:

> Given the absence of any strong expression of intent to the contrary, and in view of the devastating impact it would have on tribal institutions to deprive them of as much power as the most diminutive of municipalities, an interpretation which renders reservations of co-equal status with counties and municipalities may be preferable, particularly since the Indians, who do not own their lands in fee, often cannot incorporate the reservations under state law and thereby acquire law-making powers.
>
> . . . .
>
> Making only state-wide laws applicable to the tribes is a sensible interpretation of PL-280 and one consistent with the language of PL-280 and current trends in federal Indian policy.[26]

3. The Express Exceptions to PL 280

Nearly identical provisions limited the extent of jurisdiction conferred over both criminal and civil matters under PL 280. In both areas, the law provides as follows:

> Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto. . . .[27]

In addition to this language, the provision on criminal jurisdiction also provides:

> [Nothing in this section]. . . shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.[28]

The provision on civil jurisdiction similarly adds the following clause:

> [Nothing in this section]. . . shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.[29]

Interpretations of the scope of this statutory language has varied. As Goldberg notes:

> Indians have read this section expansively. The statutory exceptions concern matters of utmost importance to the tribes--the extent to which they can maintain their traditional livelihoods by hunting and fishing, as well as the extent to which they can acquire new livelihoods by regulating and taxing enterprises on the reservation.[30]

As to hunting and fishing rights, Goldberg's analysis finds that although the exception applies only to those rights protected by "treaty, agreement, or statute," the courts have interpreted PL 280 to also exclude traditionally-exercised rights, and that this judicial construction of the law is appropriate.[31]

Concerning the regulation of land use, Goldberg notes that most of the litigation has centered around the term "encumbrance" in the statute, and the extent to which the application of local planning and zoning ordinances constitutes a prohibited "encumbrance." She concludes that:

> Using either a broad reading of the encumbrance concept or the notion of implied federal immunity from state land use regulation, many of the Indians' complaint [sic] about state interference with tribal control over reservation development can be obviated.[32]

As to issues of taxation the controversies seem to involve whether all taxation is prohibited, or only those levied directly against trust property.[33] In this regard. Goldberg recommends:

> In the absence of a strong expression of congressional intent to increase state taxing power, the Indians' claims of entitlement to their preexisting tax immunities under PL-280 should prevail.[34]

Recently, the U. S. Supreme Court rules in Bryan v. Itasca County[35] that a county in Minnesota was not authorized under PL 280 to assess its personal property tax against a mobile home owned by an enrolled member of the Chippewa Tribe and used as a permanent dwelling on the Leech Lake Reservation.

4. Retrocession of State Jurisdiction

Until the passage of the 1968 amendments, PL 280 did not expressly provide for the retrocession or returning of jurisdiction from the states. The 1953 law did not recognize the right of either the states or the tribes to experiment with state jurisdiction and determine if it adequately served its purposes. According to Goldberg:

> The failure to include a means by which states could effect retrocession is perhaps attributable to a congressional wish to rid the federal government forever of its costly supervisory responsibilities on the reservations. The omission of a provision allowing Indians to demand retrocession is undoubtedly explained by the very law and order and pro-assimilationist impulses that accounted for the absence of an Indian consent provision.[36]

Unlike the 1968 provisions requiring a tribal referendum for the assumption of state jurisdiction, the return of jurisdiction to the federal government is available only for the states to initiate.

Although the original provisions of PL 280 did not expressly authorize the states to assume selective jurisdiction,[37] the 1968 amendments do permit selective retrocessions. As Goldberg notes:

> The absence of an Indian veto over state-initiated retrocession was undesirable from the Indinas' point of view because the state could decide to retrocede only part of their PL-280 jurisdiction, and might use that power to relieve themselves of the most costly forms of jurisdiction while retaining those most offensive to the Indians. Perhaps Congress believed that the Secretary's veto power over a state's proposed retrocession would make a tribal

> veto unnecessary in those situations where a state's partial retrocession seriously disadvantaged the Indians, or where the Indians actually preferred to retain complete state jurisdiction.[38]

Even without federal recognition of the desirability of including the tribes in retrocession determinations, some states have incorporated such a requirement into their acceptances of state jurisdiction. In Utah (the only state to acquire jurisdiction after the 1968 amendments), for example, state law provides that the state will return:

> . . . all or any measure of the criminal or civil jurisdiction acquired by it. . . whenever the governor receives a resolution from a majority of any tribe. . . certifying the results of a special election and expressly requesting the state to retrocede jurisdiction over its people or lands or any portion thereof. . . .[39]

Goldberg recommends:

> Now that assimilationist and saving federal money are no longer highest priorities of federal Indian policy, and tribal autonomy coupled with minimum safeguards for state interests are prevailing goals, a coherent view of PL-280 as a measure designed to serve the Indians militates in favor of giving the tribes more initiative in the retrocession process, regardless of whether they initially consented to jurisdiction.[40]

At least two states have exercised the option of retroceding jurisdiction under the 1968 amendments to PL 280. In Nebraska (a mandatory state), the legislature adopted a resolution in 1969 offering the return of criminal jurisdiction, except for motor vehicle offenses, over the Omaha and Winnebago reservations. The Secretary of the Interior consulted with the affected tribes and accepted jurisdiction only as to the Omaha Reservation. Nebraska challenged this partial acceptance and in 1971 rescinded its offer. According to Ackerman:

> The [Omaha] Tribe sought to enjoin the state's exercise of criminal jurisdiction. The courts issued the injunction, holding that the Secretary can accept retrocession of less than what a state offers, and that once he accepts retrocession, the procedure is completed; no further action is necessary.[41]

In Nevada (one of the optional states), criminal and civil jurisdiction was assumed in 1955 and returned in 1973.[42]

Pre-1968 attempts at retrocession were not successful, however. For example, a requested retrocession for Nebraska in 1957 was rejected by the Secretary of the Interior who felt he had no such authority under the original law. In 1965, a retrocession of jurisdiction over the Quinault Tribe in Washington State was not accomplished for the same reason.[43]

In addition to state-initiated returns of PL 280 jurisdiction, it is, of course, possible for Congress to amend the law to exempt a reservation from PL 280. Thus, in 1970, jurisdiction over certain criminal offenses was returned to the Metlakatla Indian community in Alaska by Congress.[44] Removing congressional authority for state jurisdiction over a reservation would appear to be all that would be required in the six mandatory states where no state action was taken to acquire jurisdiction in 1953. Whether such unilateral federal action would be sufficient in the remaining states where state action was required to assume jurisdiction is not known.

In the Criminal Code Reform Act of 1977, Congress is considering a proposal to allow retrocessions of state criminal jurisdiction by tribal referendum. As included in S. 1437, such tribal action would automatically return criminal jurisdiction to the federal government, and no state approval would be required.

5. PL 280: Application to Oregon

As previously noted, Oregon was one of the five states originally given state civil and criminal jurisdiction over Indian reservations by PL 280. It is not clear on what basis these five states were selected, however.

In considering proposals in Congress before 1953, it had been indicated that requests for state jurisdiction had been received from Minnesota, North Dakota, South Dakota, Montana, California, Wyoming, and Washington.[45] During the 83rd Congress in 1953, several bills were introduced authorizing state jurisdiction for California, Minnesota, Nevada, Oregon, and Wisconsin, and these were combined into one measure by the House Subcommittee on Indian Affairs.[46] According to Goldberg:

> While Congress had consulted with these states prior to passage of PL-280 in order to ascertain their desire for such jurisdiction, and had exempted certain reservations in these states at the Indians' request, it had not authorized the mandatory states to create further exemptions in response to Indian wishes.[47]

In Oregon, the Warm Springs Reservation requested and received exemption from PL 280. According to Price:

> The Warm Springs Tribe expressed its fear that its members would not be treated fairly in the State courts. The Warm Springs Tribe constitutes an isolated population group. The reservation is located in two counties and the seat of each county is some distance from the reservation. It has been reported that these two counties are poorly financed and heretofore have been unable to render any appreciable assistance to the Indians on the reservation.[48]

Except for the Warm Springs Reservation, all other Indian reservations in Oregon were automatically made subject to state civil and criminal jurisdiction by PL 280. Of the reservations in existence when PL 280 was adopted, three

remain: Warm Springs, Umatilla, and Ft. McDermitt (Oregon portion). The other reservations in the state--for Klamaths and Western Oregon Tribes at Siletz and Grand Ronde--were terminated by federal action during the 1950's.

The Burns Paiute Reservation was established in 1972 by Congress. The status of this reservation under PL 280 has been analyzed in a memorandum opinion from the Office of the Regional Solicitor for the U.S. Department of the Interior:

> At the time the Burns Paiute Reservation was established, the federal law required states to obtain the consent of the Indians occupying an Indian reservation before they could assume criminal or civil jurisdiction over Indians within all or part of such reservation. Since the Indian occupants of the Burns Paiute Reservation have never consented to the State of Oregon assuming such jurisdiction, the State of Oregon does not have criminal or civil jurisdiction with respect to matters involving Indians on the lands reserved for the Burns Paiute Reservation. Thus, this Indian reservation is under tribal and federal jurisdiction, rather than state jurisdiction.[50]

The Umatilla and Ft. McDermitt reservations remain as the only reservations in Oregon subject to the state's civil and criminal jurisdiction. During the 1975 session of the Oregon Legislative Assembly, SB 338 was introduced to retrocede state jurisdiction over the Umatilla Reservation. The bill remained in the Senate Committee on the Judiciary to which it was initially referred. According to the Confederated Umatilla Journal of October 1976, since the defeat of this state-initiated retrocession, the tribe has received the assistance of Senator Hatfield in introducing a retrocession bill in Congress, has adopted a criminal justice plan for tribal law enforcement, and has begun using federal game enforcement wardens on the reservation for the first time since PL 280 was enacted.[51]

The desire of the Umatilla Tribe for returning civil and criminal jurisdiction to the federal government includes two important considerations. The first involves the tribe's ability to provide a wide range of services to its members. In his testimony before the Senate Committee on the Judiciary, Leslie Minthorn, Chairman of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, stated:

> We feel, and others agree with us, that we now have the capability to handle our own criminal and civil matters and accordingly are asking that Senate Bill 338 receive favorable action by you--thus returning to the Umatilla Tribe all jurisdiction obtained by the State of Oregon pursuant to PL 280.
>
> We do not make this request to you lightly. We have carefully and thoroughly reviewed our development over the years, evaluated our current status and planned for our future.
>
> . . . .

> It is the obligation of any government to wisely govern those to whom it is responsible.
>
> In democratic governments, this governing process includes the formulation and promulgation of laws that will promote a peaceful and orderly society. Just as the people of the United States are entitled to be governed by laws of Congress and the people of Oregon are entitled to be governed by laws enacted by you, their elected representatives, so are the people of the Umatilla Tribe entitled to be governed by their elected officials in tribal government--officials representing a dependent sovereign possessed of all rights and powers of any sovereign except as limited by Congress. Our history and culture is unique and different from yours. Certain of our civil laws will reflect those differences so that long standing customs, familiar to our people, can be perpetuated. In order to govern our people fully and well, criminal and civil jurisdiction is essential.[52]

The second reason underlying the retrocession of state jurisdiction sought by the Umatilla Tribe involves the adequacy of present state law enforcement services. In a 1976 statement before the U. S. Senate Subcommittee on Indian Affairs, the District Attorney of Umatilla County testified:

> [I]t is essential that jurisdiction be returned, at least to the Confederated Tribes of the Umatilla Indian Reservation. Our county consists of over 3,200 square miles and our reservation is some 286,000 acres. With these vast areas State and county law enforcement simply cannot provide the protection it ought to be providing. This applies both to the Indian and to the non-Indian, living on or passing through the reservation.
>
> Every law enforcement official in Umatilla County is aware of this problem and most of them have taken the opportunity to wholeheartedly endorse a return of jurisdiction to the Confederated Tribes. These include State law enforcement officials, municipal and county officials, and courts and prosecutors as well.[53]

In October 1977, federal recognition was restored to the Confederated Siletz Tribes. Although no reservation was established for the Siletz, the law does require that a plan for the creation of a reservation be presented to the Congress before 1980. However, the Siletz Restoration Act also provides that any such plan recognize that the reservation would be subject to state civil and criminal jurisdiction.

C. Termination and House Concurrent Resolution 108

In addition to transferring civil and criminal jurisdiction over Indian reservations to certain states under PL 280, the 83rd Congress expressed its belief that federal supervision over Indians should be terminated. House Concurrent Resolution 108 (1953) provided in part:

> [I]t is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individuals thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potowatomi Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota.

HCR 108 was not the first effort at removing federal supervision over Indians, however, nor did the "sense of Congress" expressed in the resolution immediately separate tribes from the federal government.

One of the earliest completed terminations of Indian tribes was effected by 1954 for numerous Western Oregon tribes. The groundwork for this effort had been begun by 1950 and the Bureau of Indian Affairs issued "A Plan for the Withdrawal of Federal Supervision Over Indian Tribes of Western Oregon," in early 1952. In forwarding the report to the Commissioner of the Bureau of Indian Affairs, the Director of the Portland Area Office stated:

> This program has been developed on the ground [sic] with some 43 tribes and groups participating to the fullest extent and it therefore has their stamp of approval as well as that of the local county and state officials, and of the Governor of Oregon.[1]

In a draft report to the Speaker of the U.S. House of Representatives, the Secretary of the Interior offered the following jusitifications for proceeding with the implementation of the plan:

> The Indians concerned have generally attained sufficient skill and ability to manage their own affairs without special federal assistance. Through long association and inter-marriage with their white neighbors, education in public school, employment in gainful occupations in order to obtain a livelihood, and dependence on public institutions for public services, the Indians have largely been integrated and assimilated into the white society.[2]

The situation surrounding termination of the Klamath Reservation differed markedly from that of the Western Oregon tribes. A 1971 report on the economic impact of termination of the Klamath Reservation stated:

> With little thought, biased hearings, no consideration of past policies, and slight foresight, Congress prepared itself to act. The Klamaths were found "ready" for termination, primarily because of their tribal wealth and "high" incomes, and in 1954 they were terminated by Public Law 587. . . . Few Indians had any idea as to the implications of termination. . . .
>
> "Incredible" best describes the seven years between the passage of P.L. 587 and its final implementation. Evidence quickly accumulated that the Klamath were not ready for termination. Data marshalled to justify the legislation were found incomplete and biased. Individuals experienced with Oregon Indian affairs raised objections; they were ignored. Lower echelon BIA staff were constantly pressured to hurry along the termination process.[3]

Not until 1970, however, was there official disavowal of the philosophy of termination in the federal government.

In his July 8, 1970 Message on American Indians, President Nixon stated:

> Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. . . .
>
> . . . .
>
> The policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on an unilateral basis whenever it sees fit. . . .
>
> . . . .
>
> The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. . . .
>
> . . . .
>
> Because termination is morally and legally unacceptable, because it produces bad results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking Congress to pass a new Concurrent Resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolution 108 of the 83rd Congress.[4]

Just as the enunciation of the termination policy in the early 1950's did not automatically dissolve federal/Indian relations, neither did President Nixon's new philosophy immediately improve the status of Indian tribes or their members. Significant steps toward implementing this philosophy have occurred at the federal level, however, and new opportunities exist for improving the relationship between the federal government and Indian tribes. Whether these

initiatives will result in any greater long-range improvements than previous federal Indian policies remains to be determined.

The purpose of this chapter has been to provide a background for understanding the relationships between Indian tribes, the states, and the federal government. The three examples considered--treaty-making, PL 280, and the policy of termination--are not merely of historical interest. These precedents are of continuing concern to Indian tribes and groups in their associations with outside governmental entities. The Commission on Indian Services recognizes that past judgments have often been ill-conceived and that long-standing policies will not be easily overcome, nor will the needs of Indians be immediately resolved. The following chapters will report on those areas on which the Commission has focused its attention.

CHAPTER III. RELATIONS WITH FEDERAL AGENCIES, NATIONAL INDIAN ORGANIZATIONS, AND MULTI-STATE ORGANIZATIONS

The relations between Indian tribes and other governments have historically centered around the federal government. In comparison, relations between Indians and state or local governments have been infrequent. As a state agency, the Commission on Indian Services is primarily concerned with state activities affecting Indians. Despite this emphasis, but as a result of the historical development of the federal/Indian relationship, the Commission has undertaken several initiatives involving federal agencies, national Indian organizations, and multi-state organizations.

ORS 172.100(2) provides: "The Commission will not abrogate or supercede negotiations or relations that any Indian tribe, band or group might have or develop individually with any state, federal or local government." Beyond this prohibition, however, the Commission is responsible for identifying services to Indians from local, state, federal and private agencies, and for recommending expansions or improvements in these services. In implementing these directives, liaisons have been established with officials outside of Oregon to enable the Commission to be informed of issues being considered in other communities and to coordinate among federal and state programs in Oregon.

A. Federal Liaison

1. The Northwest Federal Regional Council

Federal Regional Councils (FRC) have been established throughout the United States to promote regional coordination among federal programs. In Region X, which includes Oregon, Washington, Idaho, and Alaska, the FRC has established an Indian Services Resource Panel (ISRP) to advise the FRC on federal programs for Indians. The ISRP has representatives from federal agencies serving Indian communities including the following:

(1) Bureau of Indian Affairs
(2) Indian Health Service
(3) Housing and Urban Development
(4) Office of Native American Programs
(5) Bonneville Power Administration
(6) Department of Labor
(7) Community Services Administration
(8) Department of Agriculture
(9) Economic Development Administration

In addition, representatives of the Agency for Volunteer Services (ACTION), the Law Enforcement Assistance Administration, and the Bureau of the Census participate as ad-hoc members of the ISRP.

The ISRP was created "to strengthen tribal governments and Indian and Alaska native organizations through the improved and coordinated delivery of services and resources," and has identified the following objectives:

(1) Develop and implement a federal interagency information center for Indian and Alaskan native programs in Region X.

(2) Establish criteria for screening requests for assistance and develop mechanisms and procedures by which these are processed by the Panel.

(3) Identify, review and analyze selected statutes and regulations and identify those that require change to better deliver services to Indian people and make corrective recommendations to the FRC.

(4) Review, identify and analyze selected programs, evaluating them in the light of their delivery of services.

The Commission believes that participation in ISRP meetings can be of value to Indians in Oregon in a number of ways. First, many of the issues addressed by the ISRP are similar to those faced by the Commission: coordination of resources, avoidance of duplication, etc. Second, many of the services available to Indians in Oregon originate in federal programs, and the ISRP offers an unique forum for understanding the federal agencies' roles in these programs. Without infringing on the relationships between Oregon Indian tribes and organizations and federal agencies, the Commission also believes that it can provide a useful communications link among federal agencies, state government, and Indians in Oregon, and that it can serve as an advocate for Indians in the state to receive their fair shares of the federal services that are available within the region.

2. Liaisons With Congress

Although to a lesser extent than its participation with the Indian Services Resource Panel of the Federal Regional Council in Seattle requires, the Commission has also found it desirable to establish liaisons with Oregon's members of Congress and congressional committees. The Commission has determined that its involvement with issues before Congress should be minimized; in large part, this policy has been developed because of the Commission's emphasis on state services to Indians and the existence of other organizations which are more closely following national concerns. However, in two general areas the Commission has found its participation in congressional matters necessary: (1) As an advocate for the needs of Indians in Oregon for increased federal attention; 2) When state actions appear to be influencing federal policy against the interests of Indians in Oregon.

In the first area, the Commission has urged Congress to appropriate adequate funds for the continuation of Indian education projects in the state under Title IV of the Indian Education Act of 1972; and requested that the deadline be extended for the submission of comments of the draft report of the American Indian Policy Review Commission because of the inability of many Oregon tribes and Indian organizations to review the extensive recommendations to Congress within the one month period which was allotted for this purpose. In the second area, the Commission has expressed its concern that the state

fish and wildlife commission exceeded its lawful responsibilities by opposing federal legislation to restore recognition to the Confederated Tribes of the Siletz for Indian health, education, and welfare services.

B. National Indian Organizations

The Commission recognizes that many Indian tribes and organizations concentrate on issues of general concern to Indians in the United States. Because of their expertise in these areas, the Commission believes that these national bodies can be valuable resources for the Commission in carrying out its responsibilities in Oregon.

During the past year, the Commission has not been able to participate in the conferences of national Indian organizations. During the 1977-79 biennium, the Commission anticipates making use of these opportunities to meet with other Indian groups throughout the nation and to learn of services and needs in other Indian communities. Three national Indian organizations whose activities are of particular interest and value to the Commission are the National Congress of American Indians, the National Tribal Chairmen's Association, and the National Indian Education Association.

C. Multi-State Organizations

The activities of several multi-state organizations involving issues of importance to Indians in Oregon have been brought to the attention of the Commission during the past year. Because of the Commission's role as an advisor to state government on the needs of Indians, and because of the likelihood that any recommendations forthcoming from such organizations might affect Oregon's policies and programs for Indians, the Commission believes that its involvement in the deliberations of these organizations is necessary.

1. Western States Association of Tax Administrators

In the fall of 1976, the Western States Association of Tax Administrators (WSATA) distributed a questionnaire among its members concerning state taxation of Indians. The purpose of this effort was to offer recommendations to the American Indian Policy Review Commission. The Oregon Department of Revenue prepared its responses to the questionnaire and submitted them to WSATA. Although no time was available for the Commission to offer its assistance in this matter, the Commission expressed several concerns with the questionnaire and the formulation of recommendations on taxation of Indians.

First, the Commission was concerned that the recommendations were prepared without consultation with Indian tribes or communities who would be directly affected. Additionally, the Commission found from its review of the data submitted by Oregon that there were several areas where additional information should have been reported. For these reasons, the Commission offered its assistance to the Governor and the Attorney General in the future when the state develops information on Indians in Oregon.

Second, the Commission was concerned that the questionnaire unjustifiably asked for information beyond the scope of the Department of Revenue's expertise and appeared to be seeking support for pre-determined opinions rather than

objectively considering the evidence reported. For example, in one question, the Department of Revenue was asked to comment on the degree of "intermingling of Indian and non-Indian citizens as a result of past federal termination and assimilation policies. Another question asked about "any special problems having to do with treaty rights or management of natural resources. . . between state and tribal governments, Indian and non-Indian citizens." In a third question, the department was asked to evaluate whether PL 280 had "worked as a benefit or detriment to Indian people."

2. National Conference of State Legislatures

The National Conference of State Legislatures (NCSL) announced the formation of a task force on the state role in Indian affairs in March, 1977. As a national state legislative organization, the task force has drawn its members from legislators in states with "significant interest and experience in Indian affairs," and Representative Sam Johnson was appointed by President Boe and Speaker Lang to represent the Oregon Legislative Assembly.

The NCSL task force was established to "study the extremely complex body of federal and state Indian laws and services" with particular emphasis on the following areas: state jurisdiction over Indians; intergovernmental arrangements between federal, state and tribal governments; ta ation; water rights; hunting and fishing rights; tribal jurisdiction over non-Indians; and the provision and funding of services to Indians.

The Commission will be closely following the work of the NCSL task force during the 1977-79 biennium, monitoring its progress, assisting it in understanding the needs of Indians in Oregon, and urging that it consult with tribal governments and Indian organizations during its deliberations.

3. Governors' Interstate Indian Council

The Governors' Interstate Indian Council (GIIC) is an organization of state agencies and officials who are responsible for administering programs and services to Indians. Although the Commission is not directly responsible to the Governor's Office (as is the case with Indian commissions in other states), Governor Straub has designated the Commission to represent Oregon on the GIIC.

In many respects, the GIIC appears to be concerned with the same issues under consideration by the NCSL task force and national Indian organizations. However, each approaches these issues from a different perspective, and the GIIC is principally a state executive department organization, rather than a legislative or inter-tribal effort. Among the areas to be considered by the GIIC at its 1977 annual meeting are:

(1) Issues surrounding the legal status of American Indians in treaty rights, water and mineral resources, and land acquisition cases.

(2) The need for public relations and media presentations for Indians in general across the country.

(3) Concerns which are more specific to Indian commissions, such as governor's authority over commissions, lack of funds, etc.

The Commission is hopeful that its participation in the GIIC--as well as with the federal regional council, Congress, and national Indian organizations--will be productive in better understanding other states' programs and services for Indians, and in assisting the Commission to fulfill its responsibilities to Oregon and its Indian citizens.

CHAPTER IV. STATE SERVICES AND INDIAN NEEDS

The principal concerns of the Commission on Indian Services have involved identifying the needs of Indians in Oregon for state services, initiating efforts to understand the range of services available in general, comparing these services to the needs of Indian communities, and offering recommendations for improving services or undertaking new programs for Indians.

In addressing these issues, the Commission has focused its attention on two areas: 1) administrative resolutions which can be addressed within an agency's authority; and 2) legislative solutions where new programs or services are required, or where administrative solutions are not forthcoming. The following sections summarize some of the issues in these areas with which the Commission has been involved.

A. Activities During 1977 Legislative Session

During the 1977 session of the Oregon Legislative Assembly, the Commission concentrated its efforts on six proposals: alcoholism program funding (HB 2145), burial sites protection (HB 2626), confiscations of fishing equipment (SB 580 and HB 2936), tribal police training and certification (HB 2919), and state taxation of Klamath distributions (SB 772) and incomes earned on a reservation (SB 1094). In addition, the Commission monitored other legislation of interest to Indian communities, and provided information and assistance to Indian tribes, groups, and individuals on legislative proposals in which they were interested.

1. Funding of Alcoholism Programs

During the 1977 session, signficant changes were made in the law providing revenues for alcoholism treatment and rehabilitation programs. As originally approved in 1975, the law provided for the funding of community alcoholism programs with priority consideration to minority programs. Experience under the 1975 law demonstrated that little effort was made to implement the law's directives, and the Commission worked closely with members and committees of the Legislative Assembly to fulfill the expectations of Indian communities for increased attention to the needs of Indians with alcoholism problems.

The major changes approved in the 1977 amendments included:

1. Increasing the revenues available in the Mental Health Alcoholism and Drug Services Account to approximately $8 million per biennium;

2. Requiring all treatment and rehabilitation program proposals for state matching funds to be coordinated through the counties;

3. Requiring all local alcoholism planning committees established by the counties to have adequate representation of minority community members for the planning of alcoholism treatment services;

4. Establishing an appeals process whereby the administrator of the Mental Health Division could determine the adequacy of a county's proposals for using state matching funds;

5. Establishing a procedure to be used by the Mental Health Division in giving priority consideration to minority program proposals; and

6. Requiring the Mental Health Division to publish administrative rules for the implementation of the law and the awarding of state matching grants.

The Commission believes that the amendments, by strengthening the role of the counties in the planning and delivery of alcoholism services, may result in decreased attention to and resources for Indian alcoholism programs throughout the state. For this reason, the Commission will continue to monitor closely the implementation of this law and to advocate improvements in its administration so that the needs of Indian communities will continue to be a primary emphasis of the program.

2. Protection of Indian Burial Sites

House Bill 2626, relating to the protection of Indian burial sites in Oregon, was approved by the Legislative Assembly and took effect in October 1977. The legislation was developed by the State Historic Preservation Office in conjunction with the Oregon Archaeological Preservation Committee, and makes it a Class A misdemeanor for any person to wilfully "remove, mutilate, deface, injure or destroy any cairn or grave of any native Indian." Reinterment under the supervision of an appropriate Indian organization would be required for any disturbance of Indian graves through inadvertence.

In supporting this legislation, the Commission offered amendments strengthening the bill in regard to excavation of Indian burial sites by professional archaeologists. The Commission recommended that archaeologists be required to notify local Indian organizations of their excavation plans and that archaeologists be responsible for reinterment of the human remains at their own expense under the local Indian group's supervision. These amendments were incorporated into the bill as adopted by the Legislative Assembly.

The Commission believes that HB 2626 represents a significant step towards protecting Indian graves in the state. According to testimony presented to the Commission on the need for this legislation, Indian burials were being excavated and destroyed at the rate of approximately 1,000 each year in Oregon. These sites are signficant to Indians throughout the state for their historical, cultural, religious and personal values. Before 1977, no Oregon law recognized the importance of protecting these sites from wilful or inadvertent destruction. HB 2626 will offer some protection for Indian burial grounds and will allow Indian communities the opportunity to be notified before an Indian grave is excavated for scientific purposes.

During the 1977-79 biennium, the Commission will be working with professional archaeologists, persons interested in protecting Oregon's archaeological resources, and Indian tribes and organizations in the state to insure that the law is fully implemented and that it fulfills its intended

purpose in protecting Indian burial sites from unnecessary disturbances or destruction.

3. Confiscation of Fishing Equipment

Two proposals were considered by the 1977 Legislative Assembly to improve the procedures to be followed in the confiscation and/or disposal of fishing equipment seized by law enforcement officials. Under prior law, two different, and contradictory procedures were available; which one was used depended largely on who made the seizure or was responsible for the disposal of the confiscated equipment.

SB 580 proposed the consolidation of all equipment disposals into the State Department of Fish and Wildlife, rather than having separate county sales conducted by the sheriff. HB 2936 contemplated the establishment of more adequate procedural safeguards for the custody and sale of seized equipment.

The Commission became involved in these proposals because of problems Indian tribes and fishermen, particularly on the Columbia River, experienced in having their equipment confiscated by state or local officials. The primary concern expressed to the Commission was that sales of seized equipment were often conducted without adequate notice to the owner or to tribes who might be interested. Therefore, the Commission proposed amendments to both bills which would have guaranteed that notices of sales would be generally available, and the Commission's recommendations were incorporated into the version of HB 2396 which was finally approved by the Legislative Assembly.

4. Certification and Training of Tribal Police

Before 1977, tribal police officers were not recognized as police officers under state law, and even when they satisfactorily completed the state training course, they were not eligible for certification by the state. In cooperation with the Confederated Tribes of the Warm Springs Reservation and the Board on Police Standards and Training, the Commission endorsed HB 2919 to remedy this situation.

Under the law as finally adopted, tribal police officers are now eligible to participate in state training sessions on the same basis as other law enforcement personnel in the state, and upon completion, to be certified by the state as qualified law enforcement officers.

The new law recognizes the contributions and services of tribal police agencies, and should help to improve the cooperation among all law enforcement agencies in the state. In addition, the law will assist tribal police departments in improving the quality of services which they are able to provide their communities.

5. Taxation of Klamath Distributions

SB 772 amended state law to exempt the 1974 distributions to remaining members of the Klamath Tribe from taxation. Upon termination of the Klamath Reservation in the early 1960's, members of the tribe elected to either

receive their share of the former reservation's value in cash, or to retain their interests in a private trust. For those members withdrawing their interest, the distributions were exempt from both federal and state income taxation.

In 1969, the remaining members of the tribe elected to terminate the private trust, and although Congress exempted these distributions from federal income tax, there was no corresponding exemption for state taxes. SB 772 recognized the inequity of this situation and provided tax exempt status under state law to the payments received by the remaining members of the tribe.

6. State Taxation of Reservation Income

Since 1953, the State of Oregon had assumed that the congressional grant of civil and criminal jurisdiction over certain Indian reservations had included with it the power to tax Indians living and earning their incomes on their reservations. In a 1976 decision, the U.S. Supreme Court ruled that states had not acquired such taxing authority over reservation Indians.

SB 1094 was approved by the Legislative Assembly after its introduction at the request of the Confederated Tribes of the Umatilla Indian Reservation, and recognizes the Supreme Court's decision by authorizing tribal members to seek refunds of any state income taxes paid on reservation income since 1953.

B. Other Activities--1976-1977

In addition to its participation in legislative matters during the 1977 session, the Commission has utilized its meetings to promote increased cooperation and understanding among state and federal officials or programs and Indian communities. The Commission has found that the complexities of state government are often confusing to Indian communities, and similarly, that state government has no general understanding of the backgrounds or concerns of Indian communities. This mutual lack of familiarity results largely from the lack of opportunity for these groups to consult and work with each other. The Commission believes that it provides a valuable forum for the initiation of better channels of communication among Indians and the state, and hopes to build on this foundation by continuing to develop information and recommendations which are responsive to the needs of Indians in the state and within the state's capabilities and responsibilities.

1. Commission Committees

The Commission has established five committees to assist it in improving state services to Indians. These committees work in the following areas: budgets, children's services, corrections, education, and elderly services; a summary of the activities and goals for each of these committees follows.

a. Budget Review Committee

The budget review committee--whose members are Arthur Bensell, Robert

Bojorcas, and Jim St. Martin--was established to analyze the budget requests and expenditures of state agencies whose programs serve Indians, and to make recommendations to the Commission on new or improved programs which should be considered. During the 1977 session, the committee reviewed the proposed budgets of the following state agencies for their impact on Indian communities: (1) Children's Services Division; (2) Corrections Division; (3) Mental Health Division; (4) State Department of Education; (4) State Board of Higher Education.

Only within the State Department of Education did the committee find any state-funded program specifically designed to serve the needs of Indians. During the 1977-79 biennium, the committee will continue to identify state agencies whose programs serve Indians and monitor the development of the budgets of these state agencies to assist the Commission in making recommendations for program improvements responding to Indian needs.

b. Children's Services Committee

The children's services committee--whose members are Barbara Farmer, Bill Johnson, and Jim St. Martin--was established to study and make recommendations to the Commission on services of the Children's Services Division affecting Indians, particularly in the areas of adoption and foster care, day care, and juvenile crime. During its existence, the committee has:

(1) Met with representatives of the Children's Services Division to clarify the agency's general policies and procedures;

(2) Referred individual client problems to the proper administrative official in CSD;

(3) Reviewed proposed agency rules for their impact on Indians;

(4) Assisted in the development of a day care needs assessment for Indian families;

(5) Reviewed and analyzed proposed federal legislation on Indian child welfare;

(6) Developed draft policies on adoption and foster care services for Indian children;

(7) Supported the establishment of an Indian caseworker position in the CSD office in Klamath Falls;

(8) Gathered background data on model Indian child welfare programs established by Indian tribes and other states, and reviewed judicial decisions affecting Indian child welfare.

c. Corrections Services Committee

The corrections services committee--whose members include Robert Bojorcas and Jim St. Martin--was established to improve the nature and range of services available to Indian inmates under the jurisdiction of the Corrections Division. The committee has developed contacts with representatives of the division, the

State Parole Board, Indian inmates, and community organizations working at the state institutions. In addition, the committee has initiated efforts to establish an assessment of the needs of Indian inmates for services and to work with these organizations and officials towards meeting these needs.

d. Education Committee

The education committee--whose members include Rudy Clements, John Green, and Representative Sam Johnson--was established to improve the educational services available to Indians through the State Department of Education and other agencies in Oregon. The committee has worked closely with the Oregon Indian Education Association, Indian tribes, and Indian education programs, and during the fall of 1977 sponsored a statewide workshop to clarify and improve the responsibilities of the Indian Education Specialist in the State Department of Education.

The Indian Education Specialist represents the only major program within the executive branch of state government which is directly responsible for administering services to Indian communities. There are presently 26 school districts in the state who have received entitlements under Title IV-A of the federal Indian Education Act of 1972 for the establishment of supplementary programs to meet the special educational needs of Indian students. The Indian Education Specialist provides for state coordination among these programs and offers assistance to school districts and the state department in developing other resources to serve Indian students.

In addition to working with the State Department of Education, the committee has:

(1) Collected background information on other states' Indian education efforts;

(2) Circulated a proposed policy on Indian education among Indian tribes and organizations;

(3) Received from the Educational Coordinating Commission a report on the goals of Indian high school graduates and the enrollments of Indian students in higher education institutions in the state;

(4) Worked with the state's community colleges and other higher education institutions to improve their services to or programs for Indian students;

(5) Helped publicize among other Indian communities a report from the U. S. Office of Civil Rights on its investigation of discrimination against Indian students in the Klamath County Schools;

(6) Urged Oregon's congressional delegation to provide adequate appropriations for continuing the state's programs under the Indian Education Act of 1972.

e. Elderly Services Committee

The elderly services committee--whose members include Arthur Bensell and Representative Sam Johnson--was established in the fall of 1977 to increase the services available to meet the needs of elderly Indians by working with the State Office of Elderly Affairs. The committee's role will include the monitoring of the State Plan on Aging to insure that it recognizes the state's responsibility under federal law to target services at elderly Indians and to work closely with Indian tribal governments in the planning and implementation of elderly programs and services.

2. Other Areas of Concern

The Commission's legislative and committee activities have been supplemented by inquiries into a number of other areas of concern to Indians in Oregon. This section will briefly describe some of these other activities.

a. Affirmative Action: The Commission is concerned that the standards are vague for determining which state employees are Indians for the purpose of affirmative action, and that as a result, inaccurate goals and employment rates are being established for state agencies.

b. Alcohol and Drug Services: In addition to issues of funding of alcoholism programs, the Commission has received testimony about two other needs within this category. First, concerns have been expressed with the lack of prevention programs for children and families to discourage alcohol and other drug abuse. Second, the Commission has been advised of the serious incidence of the abuse of inhalants--such as paint, glue, or other toxic substances--among Indian juveniles throughout the state, and that there are no program resources or treatment modes known for this type of substance abuse.

c. Columbia River Management Plan: The Commission received information from the State Department of Fish and Wildlife on the establishment of the joint agreement between the States of Oregon and Washington and the Columbia River treaty tribes on cooperative management of the Columbia River fisheries. The Commission believes that this step represents a significant accomplishment in a matter of critical concern to the states and the tribes, and should provide a model for similar cooperative undertakings.

d. Employment Assistance: The Commission has received testimony about the refusal of manpower programs to serve Indian clients or consider proposals to improve employment opportunities for Indians because of the existence of Indian manpower programs in the state.

The Commission also received information about the types of apprenticeship programs conducted by the state and various labor organizations for training youth in certain trades.

e. Housing: The Commission assisted in obtaining approval of a loan from the State Department of Veterans' Affairs for the construction of a home on an Indian reservation. Previously, the state's policy had been to refuse such loans. Although there was no legal justification for doing so, the department had assumed that their housing loans could not be made for homes

on federal trust lands.

In addition, the Commission provided the impetus for the State Housing Division to sponsor a statewide conference on Indian housing with Indian, federal, and state representatives.

f. Minority and Small Business Assistance: The Commission has received testimony about the assistance available from the U.S. Small Business Administration to minority businessmen, and about efforts by the U.S. Forest Service to increase the opportunities for minority enterprises to receive government procurement contracts.

g. Legal Services: The Commission has received testimony that basic legal services are generally unavailable to Indians, particularly in regard to civil matters involving federal Indian rights or benefits.

h. Volunteer Services: The Commission has received testimony about the programs available from the federal agency ACTION to increase the use of volunteer services by Indian tribes and organizations.

CHAPTER V. CONCLUSION

The Commission on Indian Services embodies the State of Oregon's first commitment recognizing the existence of Indian communities in the state, and establishing a forum for considering their needs. During its initial phase, the Commission's existence has affirmed that Indians and their tribes and organizations--whether rural, urban, recognized, or unrecognized--can work together to identify common concerns and can support each other in addressing their needs.

The Commission recognizes that it will not solve many of the problems which Indians in Oregon experience. But the Commission believes that the absence of any suitable mechanism in state government to consider these needs directly has been a significant hurdle in the past. With the Commission's establishment, an initial step has been taken to break down this barrier, and the Commission is dedicated to continuing its efforts to promote increased communication and cooperation among Indians and state government, and, with the support of both Indians and state government, to pursuing legislative and administrative solutions appropriate to meeting some of the needs of Indians in the state.

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